

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

The proposed amendments make changes to the rules for child care assistance (CCA) as follows:

- Add AmeriCorps payments, cash payments, casino profits, railroad retirement, permanent disability insurance and strike pay to the types of income considered.
- Clarify how income is projected.
- Exclude from countable income emergency and major disaster assistance.
- Clarify that, for two-parent homes, assistance will be approved only for the parents’ coinciding hours of participation in any approved activity (employment, training, or job search).
- Clarify that assistance will be paid for actual travel time between the location of the child care and the training facility or place of employment.
- Prohibit payment of child care for education in a field in which the participant will not be able to be employed because of known criminal convictions or founded child or dependent adult abuse.
- Add a definition for “on-line or distance learning” and clarify that on-line or distance learning is not approvable when it is completed in the parent’s home and there are no specified times for attendance.
- Clarify that in order to qualify for assistance based on medical incapacity, the parent must already have been determined eligible for assistance based on either the employment or training need for service.
- Clarify that assistance during a job search is limited to 30 consecutive days.
- Clarify that FIP families who need child care for employment do not need to meet the 28-hour weekly employment requirement.
- Clarify that only general (nonfinancial) eligibility requirements are reviewed for PROMISE JOBS families and families receiving assistance for protective needs.
- Clarify that a review form is not required for PROMISE JOBS participants, protective cases and families receiving assistance during a 30-day job search.
- Clarify that the Department can pay for no more than the number of units authorized on the Department’s notice of decision regarding the family’s eligibility.
- Clarify that the Department may deny or cancel a provider agreement when a provider does not meet the criteria to be an eligible provider under subrule 170.4(3).
- Remove obsolete forms, references, and requirements.

These changes are intended to ensure that the rules comply with federal Child Care Development Block Grant regulations, are congruent with rules for related programs such as PROMISE JOBS and the Family Investment Program, and reflect current procedures.

These amendments do not provide for waivers in specified situations because, to the extent that the amendments change current practice, the changes are beneficial to applicants and recipients. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before June 7, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 237A.13.

The following amendments are proposed.

ITEM 1. Amend rule **441—170.1(237A)**, definition of “PROMISE JOBS,” as follows:

“*PROMISE JOBS*” means the department’s training program, promoting independence and self-sufficiency through employment job opportunities and basic skills, as described in 441—Chapter 93, ~~Division H~~.

ITEM 2. Adopt the following new definition of “On-line or distance learning” in rule **441—170.1(237A)**:

“*On-line or distance learning*” means training such as, but not limited to, training conducted over the Iowa communications network, on-line courses, or Web conferencing. The training includes:

1. Interaction between the instructor and the student, such as required chats or message boards;
2. Mechanisms for evaluation and measurement of student achievement.

ITEM 3. Amend paragraph **170.2(1)“c”** as follows:

*c. Determining gross income.* Eligibility shall be determined using a projection of income based on the best estimate of future income. In determining a family’s gross monthly income, the department shall consider all income received by a family member from sources identified by the U.S. Census Bureau in computing median income, unless excluded under paragraph 170.2(1)“d.”

(1) Income considered shall include wages or salary, net profit from farm or nonfarm self-employment, social security, dividends, interest, income from estates or trusts, net rental income and royalties, public assistance or welfare payments, pensions and annuities, unemployment compensation, workers’ compensation, alimony, child support, and veterans pensions, cash payments, casino profits, railroad retirement, permanent disability insurance, strike pay and living allowance payments made to participants of the AmeriCorps program. “Net profit from self-employment” means gross income less the costs of producing the income other than depreciation. A net loss in self-employment income cannot be offset from other earned or unearned income.

(2) No change.

(3) When income received weekly or once every two weeks is projected for future months, income shall be projected by adding all income received in the period being used for the projection and dividing the result by the number of instances of income received in that period. The result shall be multiplied by four if the income is received weekly, or by two if the income is received biweekly, regardless of the number of weekly or biweekly payments to be made in future months.

ITEM 4. Amend subparagraph **170.2(1)“d”(17)** as follows:

(17) Earnings received by any youth under ~~Title III, Part C—Youth Employment Demonstration Program of the Comprehensive Employment and Training Act of 1973~~ the Workforce Investment Act (WIA).

ITEM 5. Adopt the following new subparagraph **170.2(1)“d”(37)**:

(37) Payments for major disaster and emergency assistance provided under the Disaster Relief Act of 1974 as amended by Public Law 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988.

ITEM 6. Amend subrule 170.2(2) as follows:

**170.2(2) General eligibility requirements.** In addition to meeting financial requirements, the child needing services must meet age, citizenship, and residency requirements. Each parent in the household must have at least one need for service and shall cooperate with the department’s quality control review and with investigations conducted by the department of inspections and appeals.

*a.* No change.

*b. Need for service.* Except for assistance provided under subparagraph 170.2(2)“b”(3), assistance shall be provided to a two-parent family only during the parents’ coinciding hours of participation in training, employment, or job search. Each parent in the household shall meet one or more of the following requirements:

(1) The parent is in academic or vocational training. Child care services may be provided for the parent's hours of participation in the academic or vocational training and for actual travel time between the child care location and the training facility.

1. Child care provided while the parent participates in postsecondary education leading up to and including a baccalaureate degree program or vocational training shall be limited to a 24-month lifetime limit. A month is defined as a fiscal month or part thereof and shall generally have starting and ending dates that fall within two adjacent calendar months but shall only count as one month. Time spent in high school completion, adult basic education, GED, or English as a second language does not count toward the 24-month limit. PROMISE JOBS child care allowances provided while the parent is a recipient of the family investment program and participating in PROMISE JOBS components in postsecondary education or training shall count toward the 24-month lifetime limit.

2. Payment shall not be approved for child care during training in the following circumstances:

- ~~1. When labor~~ Labor market statistics for a local area indicate low employment potential for workers with that training. Exceptions may be made when the ~~client~~ parent has a job offer ~~prior to~~ before entering the training or if a ~~client~~ parent is willing to relocate after training to an area where there is employment potential. ~~Clients~~ Parents willing to relocate must provide documentation from the department of workforce development, private employment agencies, or employers that jobs paying at least minimum wage for which training is being requested are available in the locale specified by the ~~client~~ parent.

- ~~2. Jobs~~ The training is for jobs paying less than minimum wage.

- ~~3. College coursework for a client~~ A parent who possesses a baccalaureate degree wants to take additional coursework unless the coursework is to obtain a teaching certificate or complete continuing education units.

- 4. The course or training is one that the ~~client~~ parent has previously completed.

- ~~5. When the client~~ The parent was previously unable to maintain the cumulative grade point average required by the training or academic facility in the same training for which application is now being made. This does not apply to parents under the age of 18 who are enrolled in high school completion activities.

- The education is in a field in which the parent will not be able to be employed due to known criminal convictions or founded child or dependent adult abuse.

- The parent wants to participate in on-line or distance learning from the parent's own home, and the training facility does not require specified hours of attendance.

~~PROMISE JOBS child care allowances provided while the parent is a recipient of the family investment program and participating in PROMISE JOBS components in postsecondary education or training shall count toward the 24-month lifetime limit.~~

(2) The parent is employed 28 or more hours per week or an average of 28 or more hours per week during the month. Child care services may be provided for the hours of employment of ~~a single parent or the coinciding hours of employment of both parents in a two-parent home~~ and for actual travel time between ~~home, the child care facility, location and the place of employment.~~ If the parent works a shift consisting of at least six hours of employment between the hours of 8 p.m. and 6 a.m. and needs to sleep during daytime hours, child care services may also be provided to allow the parent to sleep during daytime hours.

(3) The parent has a child with protective needs for child care.

(4) The ~~person who normally cares for the child~~ parent is absent from the home due to inpatient hospitalization or outpatient treatment because of physical or mental illness, or is present but due to medical incapacity is unable to care for the child or participate in work or training, as verified by a physician. ~~Care under this paragraph is limited to a maximum of one month, unless extenuating circumstances are justified and approved after case review by the service area manager or designee.~~

1. Eligibility under this paragraph is limited to parents who become medically incapacitated while eligible for child care assistance based on the need criteria in subparagraph 170.2(2) "b"(1) or 170.2(2) "b"(2).

2. Child care assistance shall continue to be available for up to 30 consecutive days after the parent becomes medically incapacitated. Assistance beyond 30 days may be approved by the service area manager or designee if extenuating circumstances are verified by a physician.

3. The number of units of service authorized shall be determined as follows:

- For a single-parent family or for a two-parent family where both parents are incapacitated, the number of units authorized for the period of incapacity shall not exceed the number of units authorized for the family before the onset of incapacity.

- For a two-parent family where only one parent is incapacitated, the units of service authorized shall be based on the need of the parent who is not incapacitated.

(5) The parent is looking for employment. Child care for job search hours shall be limited to only those hours the parent is actually looking for employment including travel time.

1. A job search plan shall be approved by the department and be limited to a maximum of 30 working consecutive calendar days in a 12-month period. EXCEPTION: Additional job search hours may be paid for PROMISE JOBS recipients if approved by the PROMISE JOBS worker.

2. ~~Child care in two-parent families may be provided only during the coinciding hours of both parents' looking for employment, or during one parent's employment and one parent's looking for employment.~~ Documentation of job search contacts shall be furnished to the department. The department may enter into a nonfinancial coordination agreement for information exchange concerning job search documentation.

EXCEPTION: Additional hours may be paid for job search for PROMISE JOBS recipients if approved by the PROMISE JOBS worker.

(6) ~~The person is participating parent needs child care services due to participation in activities approved under the PROMISE JOBS program and there is a need for child care services.~~

(7) The family is part of the family investment program and there is a need for child care services due to employment or participation in vocational training or education. A family who meets this requirement due to employment is not required to work a minimum number of hours. If a parent in a family investment program household remains in the home, child care assistance can be paid if that parent receives Supplemental Security Income.

c. No change.

d. *Citizenship.* As a condition of eligibility, the applicant shall attest to the child's citizenship or alien status by signing Form 470-3624 or 470-3624(S), Child Care Assistance Application, or Form 470-0462 or 470-0466 470-0462(S), Health and Financial Support Application. Child care assistance payments may be made only for a child who:

(1) and (2) No change.

e. No change.

ITEM 7. Amend subparagraph **170.3(1)“a”(2)** as follows:

(2) Form 470-0462 or 470-0466 470-0462(S), Health and Financial Support Application, or

ITEM 8. Amend subrule 170.3(5) as follows:

**170.3(5) Review and redetermination.** The department shall redetermine a family's financial and general eligibility for child care assistance at least every six months. EXCEPTION: The department shall redetermine only general eligibility for recipients of the family investment program (FIP)<sub>2</sub> ~~and for those persons~~ whose earned income was taken into account in determining the needs of FIP recipients, and parents who have children with protective needs, because these ~~people~~ families are deemed financially eligible so long as the FIP eligibility or need for protective services continues.

a. If FIP or protective services eligibility ends, the department shall redetermine financial and general eligibility for child care assistance according to the requirements in rule 441—170.2(237A,239B). The redetermination of eligibility shall be completed within 30 days.

b. The department shall use information gathered on Form 470-4377 or 470-4377(S), Child Care Assistance Review, to redetermine eligibility, except when the family is not required to complete a review form as provided in paragraph 170.3(5)“c.”

(1) and (2) No change.

c. Families who have children with protective needs and families who are receiving child care assistance because the parent is participating in activities under the PROMISE JOBS program are not required to complete Form 470-4377 or 470-4377(S).

(1) The department shall issue a notice of expiration for the child care assistance certification period on the notice of decision when the department approves the family's certification period.

(2) The department shall gather information needed to redetermine general eligibility. If the department needs information from the family, the department will send a written request to the family. If the family does not return the requested information by the due date, the family must reapply for child care assistance, except as provided in paragraph 170.3(6) "b."

d. Families who are receiving child care assistance because the parent is seeking employment are not subject to review requirements because eligibility is limited to 30 consecutive calendar days. This waiver of the review requirement applies only when the parent who is seeking employment does not have another need for service.

ITEM 9. Amend subparagraph **170.4(3)"h"(2)** as follows:

(2) If any of the individuals would be prohibited from registration, employment, or residence, the person shall not provide child care and is not eligible to receive public funds to do so. The department's designee shall notify the applicant, ~~and shall forward a copy of that notification to the county attorney, the department worker, and the PROMISE JOBS worker, if applicable.~~

ITEM 10. Amend subrule **170.4(7)**, introductory paragraph, as follows:

**170.4(7) Payment.** The department shall make payment for child care provided to an eligible families family when the family reports its choice of provider to the department and the provider has a completed Form 470-3871 or 470-3871(S), Child Care Assistance Provider Agreement, on file with the department. Both the child care provider and the department worker ~~or PROMISE JOBS worker~~ shall sign this form.

ITEM 11. Amend paragraph **170.4(7)"g"** as follows:

g. *Submission of claims.* The department shall issue payment when the provider submits correctly completed documentation of attendance and charges. The department shall pay ~~only~~ for no more than the number of units of service authorized in the notice of decision issued pursuant to subrule 170.3(3). Providers shall submit a claim in one of the following ways:

~~(1) Using Form 470-0020, Purchase of Services Provider Invoice, or Form 470-4466 or 470-4466(S), Child Care Provider Claim, accompanied by Form 470-3872, Child Care Assistance Attendance Sheet, signed by the parent;~~

~~(2) Using Form 470-3896, PROMISE JOBS Child Care Attendance and Invoice;~~

~~(3) (1) Using Form 470-4534, Child Care Assistance Billing/Attendance; or~~

~~(4) (2) Using an electronic request for payment submitted through the KinderTrack system.~~ Providers using this method shall print Form 470-4535, Child Care Assistance Billing/Attendance Provider Record, to be signed by the provider and the parent. The provider shall keep the signed Form 470-4535 for a period of five years after the billing date.

ITEM 12. Amend subrule 170.5(1) as follows:

**170.5(1) Provider agreement.** The department may refuse to enter into or may revoke the Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S), if any of the following occur:

a. The department finds a hazard to the safety and well-being of a child, and the provider cannot or refuses to correct the ~~hazards; or hazard.~~

b. The provider has submitted claims for payment for which the provider is not entitled; ~~or.~~

c. No change.

d. The provider does not meet one of the applicable requirements set forth in subrule 170.4(3).

ITEM 13. Amend paragraph **170.9(6)"b"** as follows:

b. The department of inspections and appeals shall initiate recoupment by notifying the debtor of the overpayment using one of the following forms: on Form 470-4530, Notice of Child Care Assistance Overpayment.

- ~~(1) Form 470-3627, Demand Letter for Child Care Assistance Provider Error Overissuance; or~~
  - ~~(2) Form 470-3628, Demand Letter for Child Care Assistance Agency Error Overissuance;~~
  - ~~(3) Form 470-3807, Demand Letter for Child Care Assistance Client Error Benefit Overissuance;~~
- or
- ~~(4) Form 470-4530, Notice of Child Care Assistance Overpayment.~~